

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DENNIS ALLEN DAVIS,)	
Plaintiff,)	
)	No. 1:23-cv-1010
v.)	
)	Honorable Paul L. Maloney
JASON KUZYK, <i>et al.</i> ,)	
Defendant.)	
_____)	

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter comes before the Court after Plaintiff, Mr. Dennis Davis, filed a premature motion for summary judgment the same day he filed his complaint. (ECF No. 3). The Magistrate issued a short and prompt Report and Recommendation (“R&R”) denying Plaintiff’s motion for summary judgment. (ECF No. 8). Plaintiff filed objections to the R&R. (ECF No. 9). The Court will adopt the Magistrate’s R&R.

I. Legal Standard

After being served with a report and recommendation issued by a magistrate judge, a party has fourteen days to file written objections to the proposed findings and recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2). A district court judge reviews de novo the portions of the R&R to which objections have been filed. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). Only those objections that are specific are entitled to a de novo review under the statute. *Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir. 1986) (per curiam).

II. Analysis

Plaintiff filed his complaint and an “ex parte expedited motion for summary disposition” on the same day. (ECF Nos. 1, 3). The R&R concludes that Plaintiff’s summary judgment motion must fail because Defendants have had no opportunity to respond and because Plaintiff failed to present evidence demonstrating he is entitled to relief. This Court agrees.

Plaintiff’s objections urge this Court to construe his writings liberally because he is a layperson. The R&R applied that standard by construing his filing as a motion for summary judgment, but Plaintiff’s filing was not salvageable. Defendants are entitled to respond and be heard by the Court as well. Plaintiff also argues there are no facts in dispute. But the Court cannot tell whether there are factual disputes before hearing from Defendants. Generally, motions for summary judgment come after the close of discovery. *See Fed. R. Civ. P. 56(b)*.

III. Conclusion

The Court will adopt the R&R and deny Plaintiff’s motion for summary judgment because it is procedurally flawed.

IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 8) is **ADOPTED** by the Court. The motion for summary judgment (ECF No. 3) is **DENIED**.
IT IS SO ORDERED.

Date: January 9, 2024

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge